

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

In re:

Case No. 15-43067

MARSHALL CREW, JR.,

Chapter 7

Debtor.

Judge Thomas J. Tucker

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**ORDER DENYING DEBTOR'S MOTION
TO SET ASIDE ORDER OF DISMISSAL AND TO REINSTATE CASE**

This case is before the Court on the Debtor's motion entitled "Ex-Parte Motion To Set Aside Order of Dismissal and to Reinstate Case," filed on March 12, 2015 (Docket # 13, the "Motion"), which this Court construes as a motion for reconsideration of, and for relief from, the Court's March 11, 2015 Order dismissing this case (Docket # 12).

The Court has reviewed and considered the Motion, and finds that the Motion fails to demonstrate a palpable defect by which the Court and the parties have been misled, and that a different disposition of the case must result from a correction thereof. *See* Local Rule 9024-1(a)(3).

In addition, the Court notes the following. First, the allegations in the Motion do not establish excusable neglect under Fed.R.Civ.P. 60(b)(1), Fed.R.Bankr.P. 9024, or any other valid ground for relief from the order dismissing this case.

Second, it appears that the Debtor is not eligible to be a debtor in this case under 11 U.S.C. § 109(h)(1). That provision provides in relevant part, that

an individual may not be a debtor under this title unless such individual has, during the 180-day period ending on the date of filing the petition by such individual, received from an approved nonprofit budget and credit counseling agency described in section 111(a) an individual or group briefing (including a briefing conducted by telephone or on the Internet) that outlined the opportunities for available credit counseling and assisted such individual in performing a related budget analysis.

The credit counseling certificate attached to the Motion shows only that the Debtor received a credit counseling briefing on March 4, 2015, which was two days *after* Debtor filed the

bankruptcy petition in this case.¹ With exceptions not applicable here, 11 U.S.C. § 109(h)(1) requires a debtor to obtain a credit counseling briefing *on or before* the date of filing the bankruptcy petition.

Accordingly,

IT IS ORDERED that the Motion (Docket # 13) is denied.

Signed on March 13, 2015

/s/ **Thomas J. Tucker**

Thomas J. Tucker
United States Bankruptcy Judge

¹ This is in contrast to the other credit counseling certificate that Debtor previously filed, twice (Docket ## 3, 10), which stated that an individual named “Marshall Crew” (not Marshall Crew, Jr., the Debtor’s name on the bankruptcy petition) obtained a credit counseling briefing on February 2, 2015.